

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHELE EVE SANDBERG,

Plaintiff,

- against -

JONAS BROTHERS ENTERPRISES LLC, NICK
JONAS, JOE JONAS, and KEVIN JONAS

Defendant.

Docket No. 1:19-cv-9679

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Michele Eve Sandberg (“Sandberg” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendants Jonas Brothers Enterprises LLC (“Jonas Brothers”), Nick Jonas (“Nick”), Joe Jonas (“Joe”) and Kevin Jonas (“Kevin” and together with Jonas Brothers, Nick and Joe “Defendants”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendants unauthorized reproduction and public display of a copyrighted photograph of the pop rock band The Jonas Brothers kicking off their Happiness Begins Tour at the American Airlines Arena in Miami, Florida, owned and registered by Sandberg, a professional photographer. Accordingly, Sandberg seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendants because Defendants resides in and/or transacts business in New York.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Sandberg is a professional photographer in the business of licensing her photographs to online and print media for a fee.

6. Upon information and belief, Jonas Brothers is a domestic business corporation duly organized and existing under the laws of the State of Delaware with a place of business 250 West 57th Street, Suite 20003, New York, New York 10107. At all times material, hereto, Jonas Brothers has operated their Instagram Pages at the URL: www.Instagram.com/KevinJonas, www.Instagram.com/JoeJonas, www.Instagram.com/NickJonas (the “Websites”).

7. Upon information and belief, Nick is an individual with a place of business 250 West 57th Street, Suite 20003, New York, New York 10107. At all times material, hereto, Nick has operated his Instagram Page at the URL: www.Instagram.com/NickJonas (the “Nick Website”).

8. Upon information and belief, Joe is an individual with a place of business 250 West 57th Street, Suite 20003, New York, New York 10107. At all times material, hereto, Joe has operated his Instagram Page at the URL: www.Instagram.com/JoeJonas (the “Joe Website”).

9. Upon information and belief, Kevin is an individual with a place of business 250 West 57th Street, Suite 20003, New York, New York 10107. At all times material, hereto, Kevin has operated his Instagram Page at the URL: www.Instagram.com/KevinJonas (the “Kevin Website”).

STATEMENT OF FACTS

A. Background and Plaintiff's Ownership of the Photograph

10. Sandberg photographed the pop rock band The Jonas Brothers kicking off their Happiness Begins Tour at the American Airlines Arena in Miami, Florida (the "Photograph"). A true and correct copy of the Photograph is attached hereto as Exhibit A.

11. Sandberg is the author of the Photograph and has at all times been the sole owner of all right, title and interest in and to the Photograph, including the copyright thereto.

12. The Photograph was registered with the United States Copyright Office and was given registration number VA 2-174-135.

B. Defendant's Infringing Activities

13. Defendants ran the Photograph on the Websites as marketing to promote their band. Screenshots of the Photograph on the Websites are attached hereto as Exhibit B.

14. Defendants did not license the Photograph from Plaintiff for its Websites, nor did Defendants have Plaintiff's permission or consent to publish the Photograph on its Websites.

15. The Websites combined received 2,167,802 Likes.

CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST DEFENDANT)
(17 U.S.C. §§ 106, 501)

16. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-12 above.

17. Defendants infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph on the Websites. Defendants are not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photograph.

18. The acts of Defendants complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

19. Upon information and belief, the foregoing acts of infringement by Defendants have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

20. As a direct and proximate cause of the infringement by the Defendants of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

21. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendants willful infringement of the Photograph, pursuant to 17 U.S.C. § 504(c).

22. Plaintiff further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Defendants be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photograph; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;

4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
October 20, 2019

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